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Utopia or Reality: Regional Cooperation in Latin America to Enhance the Protection of Refugees

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ABSTRACT

One of the purposes of cooperation in the refugee regime is to enhance protection by helping refugees find a durable solution outside States of first asylum. In this cooperation option, the challenge is to encourage States of resettlement to voluntarily accept refugees. This article aims to question the "Solidarity Resettlement Programme" developed by Latin American States as a strategy to foster cooperation. To do so, it adopts two approaches. First, it gives a general account of how cooperation works in the refugee regime and eliminates the theoretical and empirical isolationism presented in the literature that praises the programme. Secondly, it explores the Latin American cooperation framework by applying E.H. Carr's analysis of utopia and reality. The findings indicate that regional cooperation in Latin America to enhance the protection of refugees continues to have more utopian elements than realist ones.

KEYWORDS: Latin America, cooperation, refugees, solidarity resettlement

1. INTRODUCTION

To enhance the protection of refugees in the Andean region of South America, Latin American States developed a regional cooperation solution. The 2004 Declaration and Mexico Plan of Action to Strengthen International Protection of Refugees in Latin America (MPA) established the "Regional Solidarity Resettlement Programme" (Solidarity Resettlement Programme) as a framework for cooperation.[1] The MPA reaffirms "Latin America's generous tradition of asylum and innovative solutions".[2] The programme has been the subject of praise in the Refugee Studies literature, which considers it to be an example of how both Latin American States and States in other regions may foster cooperation.[3]

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1 MPA, Mexico, 16 Nov. 2004, ch. III.

2 P. Lavanchy, "The Mexico Declaration and Plan of Action: Reaffirming Latin America's Generous Tradition of Asylum and Innovative Solutions", *International Journal of Refugee Law*, 18(2), 2006, 450–451.

3 Current examples are: T. Harley, "Regional Cooperation and Refugee Protection in Latin America: A 'South-South' Approach", *International Journal of Refugee Law*, 26(1), 2014, 22–47; and L.L. Jubilut & W.P. Carneiro, "Resettlement in Solidarity: A New Regional Approach towards a More Humane Durable Solution", *Refugee Survey Quarterly*, 30(3), 2011, 63–86.

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In 2014, Latin American and Caribbean States replaced the MPA by signing the Brazil Declaration and Plan of Action (BPA).[4] Again, the international response welcomed the initiative of the Latin American States in formulating the BPA and it was declared that "other continents can learn from Latin America and the Caribbean in how to find regional solidarity for protection and solutions to displacement".[5] Besides the Andean region, the BPA also aims to enhance the protection of those forcibly displaced persons in the North Triangle of Central America and the Caribbean regions. Against this positive perspective of the Latin American cooperation framework, this article aims to provide a critical contribution to the scholarship by arguing two points. First, within the 10-year term of the MPA, the Solidarity Resettlement Programme was irrelevant to helping refugees find a durable solution in Latin America. Secondly, within the BPA, although the Solidarity Resettlement Programme has brought new developments, it is unlikely to solve any of the cooperation problems in the region in the next 10 years.

This article develops two strategies to provide its critical contribution to the Latin American cooperation debate. The first relates to methodological and epistemological gaps. The literature on Latin American cooperation mainly argues that this region is an exception in the context of cooperation in the refugee regime. However, such literature isolates its analysis from the international – and interdisciplinary – debate on cooperation and States' interests.[6] The primary strategy of this contribution is to eliminate the theoretical and empirical isolationism presented in the current scholarship by establishing a general account of what may influence States to cooperate, and then to apply this generalization to analyse a particular item (the Latin American cooperation framework). The current scholarship does the reverse – from the particular to the general. Thus, this article – although focusing on a specific area – may contribute to the global knowledge of refugee cooperation.

The second strategy is to explore the Solidarity Resettlement Programme by applying E.H. Carr's analysis of utopia and reality.[7] This approach is relevant because it reveals the necessity of using a combination of both ideas (utopia and reality) to

4 *Brazil Declaration and Plan of Action (BPA): A Common Roadmap to Strengthen Protection and Promote Sustainable Solutions for Refugees, Displaced and Stateless Persons in Latin America and the Caribbean within a Framework of Cooperation and Solidarity*, Brasília, 3 Dec. 2014.

5 United Nations High Commissioner for Refugees (UNHCR), *Cartagena + 30: Latin America and the Caribbean Adopt a Common Plan of Action,* Brasília, 3 Dec. 2014, available at: http://www.acnur.org/cartagena30/en/cartagena30-latin-america-and-the-caribbean-adopt-a-common-plan-of-action/ (last visited 6 Sep. 2016). See also C.M. Castillo, "The Cartagena Process: 30 Years of Innovation and Solidarity", *Forced Migration Review*, 49, 2015, 89–91.

6 This isolationism is a pattern in area studies analysis. See, for example, H. Kuijper, "Area Studies Versus Disciplines: Towards an Interdisciplinary, Systemic Country Approach", *The International Journal of Interdisciplinary Social Sciences*, 3(7), 2007, 205–215.

7 E.H. Carr, *The Twenty Years Crisis, 1919–1939: An Introduction to the Study of International Relations,* New York, Palgrave, 2001. Carr's analysis of utopia and reality critically questioned the idealistic principles enhanced in the creation of the League of Nations. It argued that these principles were far away from the reality of world politics at the time. Although the author criticised the utopian vision of a better world, in the end he concluded that any political action needed both elements of utopia and reality to succeed. For recent examples using Carr's analysis of utopia and reality, see D.J. Karp, "The Utopia and Reality of the Sovereignty: Social Reality, Normative IR and 'Organized Hypocrisy' ", *Review of International Studies*, 34(2), 2008, 313–335; and J. Mearcheimer, "E.H. Carr vs. Idealism: The Battle Rages On", *International Relations,* 19(2), 2005, 139–152.

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provide an accurate assessment of the programme. In the present case study, it can help in two ways. First, it can verify if Latin American States' discourse on cooperation has any effect on the ground. An example of how such an analysis may be useful is its relevance to remarks made by the High Commissioner for Refugees António Guterres after the signing of the BPA. He first praised the Latin American and Caribbean States, defining them as "courageous, generous and visionary".[8] He then stated that, "now the onus is on the region to translate with determination these commitments into actions that have a concrete and positive impact in the lives of refugees, displaced and stateless persons".[9] The second way in which such a strategy can help is by offering a critical perspective on the Latin American cooperation literature by reinforcing the need to see the normative ambition without forgetting the cost of implementing it. It concludes by indicating that utopia and reality in Latin America are still two distinct ideas. Regional cooperation in Latin America to enhance the protection of refugees continues to have more elements of utopia than components of reality.

2. COOPERATION IN THE REFUGEE REGIME

The 1951 Geneva Convention relating to the Status of Refugees[10] and its 1967 Protocol[11] (the Refugee Convention) define how States of asylum should protect refugees who arrive in their territories. However, there is no compulsory framework to define cooperation or to influence States to cooperate in relation to refugees.[12] Cooperation appears – in abstract language – only in the preamble of the Refugee Convention. Signatory States declared that only "international cooperation" can solve the "unduly heavy burdens" – or the massive influx of refugees – on States of first asylum.[13] Cooperation is necessary because the massive influx of refugees may have economic, environmental, social, and political effects on States of first asylum, as well as impacts on peace and security at the national, regional, and international levels.[14] Because of the lack of an agreement, cooperation among States in the refugee regime refers to burden-sharing, responsibility-sharing, and good neighbourliness. The aim of cooperation is to offer a solution to refugee problems in two ways: first, to provide financial and material resources to enhance the protection of refugees in States of first asylum; and secondly, to help refugees find a temporally or durable solution outside States of first asylum through resettlement.[15] The Convention Plus initiative tried to establish a framework to implement this second option of

8 UNHCR, *Cartagena + 30: Latin America and the Caribbean Adopt a Common Plan of Action.*

9 *Ibid.*

10 Convention relating to the Status of Refugees, 189 UNTS 150, 28 Jul. 1951 (entry into force: 22 Apr. 1954).

11 Protocol relating to the Status of Refugees, 606 UNTS 267, 31 Jan. 1967 (entry into force: 4 Oct. 1967).

12 G.S. Goodwin-Gill & J. McAdam, *The Refugee in International Law*, 3rd ed., Oxford, Oxford University Press, 2007, 502–505.

13 Refugee Convention, preamble, para. 4.

14 UNCHR Executive Committee, *International Solidarity and Burden-Sharing in All Its Aspects: National, Regional and International Responsibilities for Refugees*, 49th Section, UN Doc. A/AC.96/904, 7 Sep. 1998, paras. 7–12.

15 See UNHCR, *International Cooperation to Share Burden and Responsibilities*, Discussion Paper, Expert Meeting, Amman, 27–28 Jun. 2011, available at: http://www.refworld.org/docid/4e533bc02.html (last visited 6 Sep. 2016); and A. Hurwitz, *The Collective Responsibility of States to Protect Refugees*, Oxford, Oxford University Press, 2009, 138–171.

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cooperation but failed to influence States of resettlement to sign it.[16] Therefore, to foster cooperation to help refugees find a durable solution outside States of first asylum, the challenge is to encourage States of resettlement to accept them voluntarily.

Provisional data from the United Nations High Commissioner for Refugees (UNHCR) shows that States of first asylum most affected by the massive influx of refugees are in Africa (Ethiopia and Kenya), Asia (Pakistan and Lebanon), and Europe (Turkey). The States of resettlement most willing to cooperate are in North America (the US and Canada), Australia, and Europe (Sweden and Norway).[17] Consequently, cooperation in the refugee regime has a "North-South impasse".[18] In the current cooperation scenario, 26 States of resettlement offer 105,197 resettlement quotas to help refugees depart from States of first asylum.[19] Although there are 26 States cooperating, almost all of the quotas are offered by just three States of resettlement. The US has the highest number (73,011), followed by Canada (12,277) and Australia (11,570).[20] However, to enhance the protection of refugees globally, States of resettlement need to open 1,150,000 resettlement places.[21]

To complicate the above scenario, the Syrian crisis has already displaced 4.08 million refugees to neighbouring States.[22] The likelihood of this scenario tends to grow because "the Syrian war will worsen".[23] Turkey is the current State of first asylum most affected by the crisis in Syria, with an influx of around 1.9 million refugees into its territory, followed by Lebanon (1.1 million), Jordan (629,000), and Iraq (249,000).[24] In December 2014, 10 per cent of the total number of Syrian refugees in States of first asylum (3.2 million at the time) needed to find a durable solution elsewhere.[25] However, States of resettlement agreed to receive only 100,000 refugees.[26] Given the current numbers (4.08 million refugees), solving the Syrian humanitarian crisis – using the 10 per cent mark of the UNHCR – requires opening at least 400,000 resettlement places over the entirety of the forthcoming years. However, Oxfam indicates that States of resettlement are offering less than 2 per

16 M. Zieck, "Doomed to Fail from the Outset? UNHCR's Convention Plus Initiative Revisited", *International Journal of Refugee Law*, 21(3), 2009, 387–420.

17 UNHCR, *Global Trends 2014*, Geneva, UNHCR, Jun. 2015.

18 A. Betts, "North-South Cooperation in the Refugee Regime: The Role of Linkages", *Global Governance: A Review of Multilateralism and International Organizations*, 14(2), 2008, 157–178; A.R. Zolberg, A. Suhrke & S. Aguayo, *Escape from Violence: Conflict and the Refugee Crisis in the Developing World*, New York/Oxford, Oxford University Press, 1989, 278–279.

19 UNHCR, *Global Trends 2014.*

20 *Ibid.*

21 UNHCR, *Projected Global Resettlement Needs 2016,* 21st Annual Tripartite Consultations on Resettlement, Geneva, 29 Jun.–1 Jul. 2015, 12.

22 UNHCR, *Syrian Regional Refugee Response*, Inter-agency Information Sharing Portal, available at: http://data.unhcr.org/syrianrefugees/regional.php (last visited 6 Sep. 2016).

23 International Crisis Group, *Statement on a Syrian Policy Framework*, Brussels, 27 Apr. 2015, available at: https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/syria/statement-syrian-policy-framework (last visited 6 Sep. 2016).

24 UNHCR, *Syrian Regional Refugee Response.*

25 UNHCR, *Governments at Geneva Meeting Agree to Take in 100,000 Syrian Refugees*, New Stories, 9 Dec. 2014, available at: http://www.unhcr.org/548737926.html (last visited 6 Sep. 2016).

26 *Ibid.*

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cent, "and within an unclear timeframe".[27] In addition, the Syrian crisis continues to impose further restraints on the UNHCR's global expenditure budget. The UNHCR has received only 37 per cent (US$1.6 billion) of the total financial requirement for solving the Syrian crisis (US$4.5 billion).[28] As a result, the financial and cooperation scenarios may leave UNHCR without any options for promoting durable solutions and with the continued obligation to provide humanitarian assistance to refugees and deal with the consequences.[29]

The lack of financial resources and lack of willingness on the part of States of resettlement to offer resettlement places are the current realities of the cooperation scenario in the refugee regime. Moreover, the refugee regime operates in a world political environment constrained by many factors (social, political, economic, security, etc.) that may create problems that prevent States of resettlement from cooperating. Thus, there is no international solution to the cooperation crisis in the refugee regime. The E.H. Carr analysis of utopia and reality explains that any *ad hoc* or theoretical attempt to solve this scenario successfully must contain elements of utopia with certain components of reality. Otherwise, the visionary commitment will be harder to put into practice by States of resettlement. The Refugee Convention is a model of this analysis because it contains both of these elements: it is an example of visionary commitments (refugee protection) but "conceived out of enlightened self-interest".[30] To sign the Convention, States imposed temporal and geographical limitations because they did not want to "sign a blank check" to protect refugees in the future.[31] Subsequently, however, the Convention's Protocol eliminated both limitations. Although there is no framework for cooperation, many cooperative arrangements have been established in the refugee regime to help refugees find new places outside States of first asylum. When we look at these cases of cooperation, a theoretical analysis is helpful in understanding how cooperation works, especially in relation to the motivation of States that cooperate. It reveals that many factors (with a combination of both elements of utopia and reality) influenced States of resettlement to ultimately cooperate.

The "instrumental-communitarian model" is one theoretical explanation for the cooperation that took place under the International Refugee Organization (IRO) between 1947 and 1951.[32] According to this assumption, States of resettlement cooperated because they had a mixture of political and macroeconomic reasons, together with moral values. Cooperating under the IRO, more than 20 States of resettlement offered 1.039 million resettlement quotas to help refugees find new horizons beyond

27 Oxfam, *Syria Crisis Fair Share Analysis*, Oxford, Oxfam, 30 Mar. 2015, available at: https://www.oxfam.org/en/research/syria-crisis-fair-share-analysis-2015 (last visited 6 Sep. 2016).

28 UNHCR, *Syrian Regional Refugee Response.*

29 J. Hyndman, *Managing Displacement: Refugees and the Politics of Humanitarianism*, Minneapolis, University of Minneapolis Press, 2000.

30 UNHCR, "The Wall Behind Which Refugees Can Shelter", *Refugee*, 2(123), 2001, 2.

31 *Ibid.*

32 A. Suhrke, "Burden Sharing during Refugee Emergences: The Logic of Collective versus National Action", *Journal of Refugee Studies*, 11(4), 1998, 413.

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Europe.[33] To complement this analysis, newer findings show how the Anglo-American strategy of transforming European refugees into workers available to liberal States helped to foster cooperation.[34] Nevertheless, after the IRO resettlement operation, 176,000 refugees remained in the European camps. Most of them were less economically desirable because they were old, weak, or orphaned.[35] In the end, favourable factors (related to peace and the economy), strategic interests (related to geopolitical and hegemonic interests), and moral values may have influenced States of resettlement to help more than 1 million refugees.

In contrast to the case above, it is interesting to note when cooperation did not take place. One hypothesis for the failure of the International Conference on Assistance to Refugees in Africa (ICARA), in place from 1981 to 1984, is that States of resettlement did not find any strategic interest related to helping African refugees.[36] After the failure of the first ICARA in 1981 and the second in 1984, UNHCR tried to link the problem of refugees in Africa with development assistance for the region.[37] However, the problem has not been resolved and generations of refugees remain in States of first asylum in Africa without any hope of obtaining a durable solution elsewhere.[38]

Other cases show that cooperation took place but controversies remain in the literature, especially related to States' interests versus refugees' rights. For example, studies of the International Conference on Central American Refugees (CIREFCA), in place from 1987 to 1995, have found that peace and security related to trade were the major interests of European States that fostered their cooperation.[39] However, the apparent success of CIREFCA was, in fact, a cooperation failure on the ground because the Central American States did not apply any of its solutions.[40] In the Comprehensive Plan of Action (CPA) for Indochinese Refugees, in place from 1988

33 M.J. Proudfoot, *European Refugees: 1939–1952: A Study in Forced Population Movement,* London, Faber & Faber, 1957, 425. See also G.D. Cohen, *In War's Wake: Europe's Displaced Persons in the Postwar Order,* Oxford, Oxford University Press, 2012.

34 S. Salvatici, "From Displaced Persons to Laborers: Allied Employment Policies in Post War West Germany", in J. Reinisch & E. White (eds.), *The Disentanglement of Populations: Migration, Expulsion, and Displacement in Post War Europe, 1944–9,* New York, Palgrave Macmillan, 2011, 210–228. Other factors that may have helped cooperation to take place under the IRO were the peace that arrived in world politics after the Second World War (see, for example, P.O. Cohrs, *The Unfinished Peace after World War I: America, Britain and the Stabilization of Europe,* Cambridge, Cambridge University Press, 2006) and the resumption of economic growth in the US (see J.R. Vernon, "World War II Fiscal Policies and the End of the Great Depression", *The Journal of Economic History*, 54(4), 1994, 850–868) and Europe (see N. Crafts & G. Toniolo, *Economic Growth in Europe since 1945,* Cambridge, Cambridge University Press, 1996).

35 M. Barnett & M. Finnemore, *Rules for the World: International Organizations in Global Politics,* New York, Cornel University Press, 2004, 179.

36 A. Betts, *Protection by Persuasion: International Cooperation in the Refugee Regime*, Ithaca, Cornell University Press, 2009, 53–77.

37 R.F. Gorman, "ICARA II: Implementing Refugee-Related Development Assistance", *International Migration Review*, 20(2), 1986, 283–298.

38 See, for example, contemporary protracted refugee populations in Africa in G. Loescher & J. Milner, *Protracted Refugee Situations: Domestic and International Security Implications*, London, Oxford University Press/International Institute for Strategic Studies, 2005, 38–55.

39 Betts, *Protection by Persuasion*, 78–111.

40 M. Bradley, "Unlocking Protracted Displacement: Central America's 'Success Story' Reconsidered", *Refugee Studies Quarterly*, 30(4), 2011, 84–121.

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to 1996, the literature suggests that cooperation took place only because of the hegemonic interests of the US in promoting a solution.[41] For other scholars, the CPA case was a failure because it neglected refugees' rights.[42] In the case of Kosovo in 1999, scholars have also found that the cooperation took place only because of the strategic interests of the US in solving the Kosovo crisis.[43] The Kosovo case appears to be irrelevant for a cooperation model because of the lack of asylum principles in its results.[44] The lessons from all of the above cases indicate two ways for cooperation to take place in the refugee regime. First, moral values alone may not be enough to motivate States of resettlement to cooperate. Secondly, States of resettlement need to be persuaded[45] to cooperate and any solution needs to start "beyond charity"[46] before moving to "strategies of humanitarianism".[47]

Two observations may be helpful here to complement the perspective above in order to show that cooperation in the refugee regime is similar to other areas of world politics. The first relates to States' interests and human rights. Strategic conditions, such as the coincidence of interest, cooperation, coordination, and coercion, explain how the practices of States relate to human rights most of the time.[48] The second relates to States' interests and international aid. Studies have found that the main reason why industrial States provided aid and assisted in alleviating poverty in African States during the Cold War was to sustain their conditional interests.[49] One of these interests was the fight against communism.[50] During the same period, contemporary studies considered that US concern for human rights was the main reason for its aid to Latin American States.[51] However, newer findings have revealed that security was the priority of the US in the region.[52] Since the Cold War, US security interests have been the main conditional element behind the provision of

41 Some examples are Suhrke, "Burden Sharing during Refugee Emergences", 413; Betts, *Protection by Persuasion,* 112–142; and W.C. Robinson, *Terms of Refuge: The Indochinese Exodus and the International Response*, London, Zed Books, 1998.

42 J.C. Hathaway, "Labelling the 'Boat People': The Failure of the Human Rights Mandate of the Comprehensive Plan of Action for Indochinese Refugees", *Human Rights Quarterly*, 15, 2003, 686–702.

43 M. Barutciski & A. Suhrke, "Lessons from the Kosovo Refugee Crises: Innovations and Protection and Burden Sharing", *Journal of Refugee Studies*, 14(2), 2001, 95–134.

44 T. Einarsen, "Refugee Protection beyond Kosovo: Quo Vadis?", *Journal of Refugee Studies*, 14(2), 2001, 119–127.

45 Betts, *Protection by Persuasion.*

46 G. Loesher, *Beyond Charity: International Cooperation and the Global Refugee Crisis,* Oxford, Oxford University Press, 1993.

47 J. Snyder, "Realism, Refugees, and Strategies of Humanitarianism", in A. Betts & G. Loescher (eds.), *Refugees in International Relations,* Oxford, Oxford University Press, 2013, 29–52.

48 J.L. Goldsmith & E.A. Postner, *The Limits of International Law,* Oxford, Oxford University Press, 2005, 107–134.

49 P.J. Schraeder, S.W. Hook & B. Taylor, "Clarify the Foreign Aid Puzzle: A Comparison of American, Japanese, French, and Swedish Aid Flows", *World Politics*, 50(2), 1998, 294–323.

50 A. Boschini & A. Olosfgard, *Foreign Aid: An Instrument for Fighting Poverty or Communism*, Washington, DC, World Bank, Jun. 2001, available at: http://info.worldbank.org/etools/docs/voddocs/155/336/olofsgard.pdf (last visited 6 Sep. 2016); and A. Alesina & D. Dollar, "Who Gives Foreign Aid to Whom and Why", *Journal of Economic Growth*, 5(1), 2000, 33–63.

51 D.L. Cingranelli & T.E. Pasuarello, "Human Rights Practices and the Distribution of U.S. Foreign Aid to Latin American Countries", *American Journal of Political Science*, 29(3), 1985, 539–563.

52 J. McCormick & N. Mitchell, "Is US Aid Really Linked to Human Rights in Latin America?", *American Journal of Political Science*, 32(1), 1988, 231–239.

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international aid.[53]Although selfishness is an essential reality of world politics,[54] in the end many extrinsic factors and conditional interests have helped cooperation to take place.[55] That said, as in any other environment, cooperation remains difficult to achieve and hard to sustain.[56]

On the other hand, solidarity and altruism alone seem to influence the policy and theoretical debate related to cooperation in the refugee regime. For example, the 1967 United Nations Declaration on Territorial Asylum[57] defines, in Article 2(2), that States can consider "the spirit of international solidarity" to "lighten the burden" on States of first asylum. The UNHCR promotes the idea that international solidarity may foster protection and cooperation in the refugee regime.[58] Following this line, the theoretical literature recognizes that the cases of cooperation in the refugee regime, "in which regionalism has often coincided with national or state self-interest" have to be forgotten to foster new cases.[59] However, this analysis is misleading because the ICARA case shows the opposite: when conditions are not right (without the right self-interest), States of resettlement are incapable of promoting cooperation. The cooperation cases analysed above (IRO, CIREFCA, CPA, and Kosovo) show that, despite their controversies, when conditions are right (correct self-interest, favourable factors, and moral values), States of resettlement will try to make an effort to cooperate. The current Syrian crisis may provide a further case of cooperation in the refugee regime for scholars to test.

In the end, the structure for cooperation to take place in the refugee regime is difficult to establish because it needs one specific scenario: a State of resettlement from the North cooperating (offering resettlement places to receive refugees and integrate them into society) to benefit a State of first asylum (in the South) by reducing its massive influx of refugees. Although cooperation in the refugee regime benefits States of first asylum, the main beneficiaries of cooperation are the refugees themselves because they will obtain a durable solution in a State of resettlement. Therefore, States of resettlement, when deciding whether to cooperate, need to include refugees and States of first asylum in their interests. Ultimately, cooperation in

53 B. Lai, "Examining the Goals of US Foreign Assistance in the Post-Cold War Period, 1991–96", *Journal of Peace Research*, 40(1), 2003, 103–128.

54 H.J. Morgenthau, *Politics among Nations: The Struggle for Power and Peace,* 7th ed., London, McGraw-Hill, 2005.

55 R.O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy,* Princeton, Princeton University Press, 1984; R. Axelrod & R.O. Keohane, "Achieving Cooperation under Anarchy: Strategies and Institutions", *World Politics*, 38(1), 1985, 226–254.

56 J. Grieco, "Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism", *International Organization*, 42(3), 1988, 485–507.

57 Declaration on Territorial Asylum, General Assembly, Res. 2312 (XXII), 22 UN GAOR Supp. (No. 16) UN Doc. A/6716, 1967, 81.

58 See, for example, UNHCR, *The State of World's Refugees: In Search of Solidarity,* Oxford, Oxford University Press, 2012; UNHCR, *Mexico Plan of Action: The Impact of Regional Solidarity*, San José, Editorama, 2007; and UNHCR Executive Committee, *Conclusion No. 52 on International Solidarity and Refugee Protection*, 1988.

59 S. Kneebone & F. Rawlings-Sanaei, "Regionalism as a Response to a Global Challenge", in S. Kneebone & F. Rawlings-Sanaei (eds.), *New Regionalism and Asylum Seeker: Challenges Ahead,* New York, Berghahn Books, 2007, 1–24.

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the refugee regime seems to operate under the same general rule as other areas of world politics: without the right strategic interests, States of resettlement remain reluctant to cooperate.

3. REGIONAL COOPERATION IN LATIN AMERICA TO ENHANCE THE PROTECTION OF REFUGEES

Given this general understanding of how cooperation works in the refugee regime, is Solidarity Resettlement Programme an exception? To answer this, this section will first provide a textual analysis of the MPA and then its empirical implementation.

3.1. Textual analysis of the MPA

In launching the MPA in 2004, Latin American States identified three regional refugee scenarios, all related to the Andean region of South America: States that receive a small number of the refugee population; States of first asylum with a considerable number of refugees in their territories; and States interested in developing resettlement programmes.[60] Chapter three of the MPA developed durable solutions for Latin America, including solidarity cities, borders of solidarity, and solidarity resettlement programmes. The MPA's main reason for working on durable solutions was that "Latin America has a broad tradition of protection and solidarity toward those who have been persecuted" and has developed regional solutions "for its own refugees".[61] The MPA introduction on durable solutions also stated that, to implement it, Latin American States would need the cooperation of the international community, based on "the principles of solidarity and responsibility-sharing".[62] As mentioned before, these principles are irrelevant to States' promotion of cooperation, in the refugee regime or any other area. In relation to the regional context, Latin American States highlighted two scenarios in the region: the growing number of urban refugees and the growing number of Colombian citizens living outside urban centres in Ecuador, Panama, and Venezuela.[63]

Brazil influenced the MPA in developing the Solidarity Resettlement Programme with the suggestion of creating a "framework of international solidarity and responsibility-sharing" in Latin America.[64] Brazil's proposal combined its expertise and interests: expertise in defining the resettlement of refugees in its 1997 Refugee Act[65] and its interest in becoming a regional leader.[66] The idea of developing a South–South approach was not exclusive to refugee cooperation and protection. It was also applied

60 MPA, ch. 1, para. 5.
61 MPA, ch. 3, para. 1.
62 MPA, ch. 3, para. 2.
63 MPA, ch. 3, para. 3.
64 MPA, ch. 3, item 3, para. 1.
65 J.H. Fischel de Andrade & A. Marcoline, "Brazil's Refugee Act: Model Refugee Law for Latin America", *Forced Migration Review*, 12, 1998, 37–39; L.L. Jubilut, "Refugee Law and Protection in Brazil: A Model for South America?", *Journal of Refugee Studies*, 19(1), 2006, 22–44.
66 M.R. Soares de Lima & M. Hirst, "Brazil as an Intermediate State and Regional Power: Action, Choice and Responsibilities", *International Affairs*, 82(1), 2006, 21–40.

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in other areas during Luis Inácio Lula da Silva's presidential mandate (2003–2010) and became one of the main characteristics of Brazil's foreign policy.[67]

The main purpose of the Solidarity Resettlement Programme was to solve the "humanitarian situation" in States of first asylum in the Andean region (especially Ecuador and Venezuela). In order to solve this humanitarian problem, the MPA decided to make it possible "for any Latin American country, at the opportune time, to participate and to receive refugees who are in other Latin American countries".[68] Besides the South–South approach, the MPA appealed "to the international community to support the straightening and consolidation" of the Solidarity Resettlement Programme.[69] In the end, the MPA reaffirmed three points about the Solidarity Resettlement Programme: it is a durable solution in the region and for the region; it should be viewed as a "duty deriving from international solidarity", instead of "burden-sharing"; and the international community needs to pay for its technical and financial costs. [70]

The results from both the first part (cooperation) and the textual analysis of the MPA above may suggest a positive answer to a question used before in another context.[71] Before we move on to examining the empirical implementation of the Solidarity Resettlement Programme, the next paragraphs will explore one idea that needs to be clarified. Latin American States argue that solidarity has been the driving force of refugee cooperation and protection in the region. This perspective may lead to the view that Latin America is an exceptional region in the refugee regime.

When it comes to refugees, Latin America has a long tradition on the themes of asylum, cooperation, and protection. On the theme of asylum, the historical development of the diplomatic and territorial asylum tradition – since its codification in the 1889 Montevideo Treaty of Penal Law – may have contributed to its image as a region characterised by solidarity. However, an empirical study focusing on the practice of asylum in Latin America has already shown the opposite to be the case.[72] This analysis revealed that, instead of providing asylum, the main practice among Latin American States is to grant political exile to its nationals.

On the theme of cooperation, Latin America, North America, Europe, Australia, and Israel were the major regions and States that offered most of the resettlement places under the IRO.[73] In the case of Latin America, most of the 100,000 European refugees went to South America, especially Argentina (32,712), followed by Brazil (28,848) and Venezuela (17,277).[74] In understanding the motivation of Latin American States to cooperate, the "instrumental-communitarian model" also applies.

67 See the memoir of the foreign policy minister of Brazil during Luis Inácio Lula da Silva's presidential mandate: C. Amorim, *Teerã, Ramalá e Doha*, São Paulo, Benvirá, 2015. See also, by the same author, *Breves Narrativas Diplomáticas*, São Paulo, Benvirá, 2013 and *Conversas com Jovens Diplomatas*, São Paulo, Benvirá, 2011. One note on these memoirs: in none of them is the MPA mentioned.

68 MPA, ch. 3, item 3, para. 1.

69 MPA, ch. 3, item 3, para. 2.

70 MPA, ch. 3, para. 3.

71 Zieck, "Doomed to Fail from the Outset?".

72 M. Sznajder & L. Roniger, *The Politics of Exile in Latin America*, Cambridge, Cambridge University Press, 2009.

73 Proudfoot, *European Refugees*, 425.

74 *Ibid.*

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For example, related to States' interests, most refugees went to South America mainly because they met the labour and immigration requirements of the States.[75] Other States in South America, Central America, and the Caribbean received fewer refugees because of a lack of economic growth, a small market, and a lack of resources to develop plans to receive refugees.[76]

Latin America's main reference comes from the 1984 Cartagena Declaration on Refugees (Cartagena Declaration),[77] which opened the region to the world of refugee protection.[78] States in the region complemented the international refugee concept – based on a "well-founded fear of persecution" – with a regional concept based on generalised violence (including foreign aggression, internal conflicts, massive human rights violations, etc.). At the same time, as the history of the tradition of asylum seems to show, it also contributed to the image of Latin America as a region characterised by solidarity in the matter of refugee protection. Although Latin American States implemented the Cartagena Declaration throughout the region, the main States of first asylum excluded it. According to the national refugee legislation database developed by UNHCR America, 14 Latin American States (Argentina, Belize, Bolivia, Brazil, Chile, Colombia, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay) adopted the refugee definition based on the Cartagena Declaration.[79] UNHCR provisional data show that 17,817 refugees obtained asylum in these 14 States. Brazil (7,490) and Honduras (26) have the highest and smallest refugee populations, respectively, among the 14 States that have adopted the regional definition of refugee.[80]

On the other hand, the main States of asylum in the region (Ecuador, Costa Rica, Panama, and Venezuela) with the highest refugee populations, including "people in refugee-like situations" (people outside their States of origin with the same risks as refugees, but whose refugee status in the States of first asylum has not been ascertained) excluded the Cartagena definition in their national refugee legislation. These States have 333,776 refugees in total.[81] According to this data, considering only refugees, Ecuador has the highest number (53,817), followed by Costa Rica (12,924), Venezuela (5,052), and Panama (2,271).[82] If we count only "people in refugee-like

75 H. Von Holleufer, "Seeking New Horizons in Latin America: The Resettlement of 100,000 European Displaced Persons between the Gulf of Mexico and Patagonia (1947–1951)", *Jahrbuch für Geschichte Lateinamerikas*, 39, 2002, 125–161. See also the role of Brazil and the IRO in J.H. Fischel de Andrade, "Brazil and the International Refugee Organization (1946–1952)", *Refugee Survey Quarterly*, 30(1), 2011, 65–88, and a doctoral thesis about Brazilian refugee policy: J.B. Moreira, *Política em relação aos refugiados no Brasil (1947–2010)*, Tese de Doutorado, Universidade Estadual de Campinas, Instituto de Filosofia e Ciências Humanas, 2012.

76 K.W. Yundt, *Latin American States and Political Refugees*, NewYork, Praeger Publishers, 1988, 46.

77 Cartagena Declaration on Refugees, Adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico, and Panamá, held in Cartagena on 19–22 Nov. 1984, available at http://www.oas.org/dil/1984_cartagena_declaration_on_refugees.pdf (last visited 6 Sep. 2016).

78 R. Cuellar, D. Garcia-Say'N, J. Montaño, M. Diegues & L.V. Lanza, "Refugee and Related Developments in Latin America: Challenges Ahead", *International Journal of Refugee Law*, 3(3), 1991, 482–498.

79 UNHCR, *Base de Datos Legal*, available at: http://www.acnur.org/t3/recursos/bdl/(last visited 6 Sep. 2016).

80 UNHCR, *Global Trends 2014.*

81 *Ibid.*

82 *Ibid.*

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situations", Venezuela has the highest population (168,548), followed by Ecuador (68,344), Panama (15,000), and Costa Rica (7,820).[83] Two conclusions follow from these figures. First, when conditions are right (the volume of refugees is low), domestic legislation applies the Cartagena concept to protect refugees (currently 14 States). Secondly, when conditions are not right (the volume of refugees is high), domestic legislation excludes the Cartagena concept to protect refugees (Costa Rica, Ecuador, Panama, and Venezuela).

The case of Ecuador may help to understand another conclusion from the analysis above. If the volume of refugees is low and domestic legislation applies the Cartagena concept to protect refugees, but the volume of refugees then increases over the years, new legislation will try to exclude the concept eventually. For example, Ecuador adopted the regional concept of refugee in its 1992 national legislation.[84] In 2009, however, Ecuador implemented the Enhanced Registration Project (ERP) as a final strategy to change its refugee legislation because of the increase of Colombian refugees in its territory. Under the ERP, Ecuador granted refugee protection to 26,000 Colombian refugees.[85] In 2012, Ecuador adopted new domestic legislation (Executive Decree 1182), that excluded the Cartagena Declaration concept.[86] This decision could affect the protection of Colombian refugees in Ecuador because most of them obtain refugee status (due to the nature of the Colombian conflict) on the basis of the definition of the Cartagena Declaration.[87] However, in September 2014, a decision from the Constitutional Court of Ecuador declared several Articles of the new legislation unconstitutional, including the exclusion of the Cartagena Declaration definition in Ecuador's new Refugee Act.[88]

In sum, the analysis of the tradition of asylum, cooperation, and protection in relation to refugees shows that Latin American States act using the same strategic interests as any other State in any other region. The main difference, however, is that Latin American States use the rhetoric of solidarity in their discourse.

3.2. The MPA implementation process

The States of resettlement in Latin America that have decided to implement the Solidarity Resettlement Programme are Argentina, Brazil, Chile, Paraguay, and Uruguay. In 2014, according to UNHCR, three of them (Argentina, Brazil, and

83 *Ibid.*

84 UNHCR, *Base de Datos Legal.*

85 UNHCR, *An Innovative Project Helps 26,000 Refugees in Northern Ecuador*, Briefing Notes, 6 Apr. 2010, available at: http://www.unhcr.org/4bbb0e0a9.html (last visited 6 Sep. 2016).

86 UNHCR, *Base de Datos Legal.*

87 The decision of Ecuador to exclude the Cartagena concept when conditions are not right is a pattern in refugee protection. See, for example, M.J. Gibney, *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees*, Cambridge, Cambridge University Press, 2006; V. Squire, *The Exclusionary Politics of Asylum*, Chippenham, Palgrave Macmillan, 2009; E.O. Abuya, "Past Reflection, Future Insights: African Asylum Law and Policy in Historical Perspective", *International Journal of Refugee Law*, 19(1), 2007, 51–95; and B. Rutinwa, "The End of Asylum: The Changing Nature of Refugee Policies in Africa", *Refugee Survey Quarterly*, 21(1 and 2), 2002, 16–41.

88 Asylum Access Ecuador, *Ecuador Advances the Protection of Refugees*, Ecuador, 15 Sep. 2014, available at: http://asylumaccess.org/wp-content/uploads/2014/10/Ecuador-advances-the-protection-of-refugees.pdf (last visited 6 Sep. 2016).

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Uruguay) had offered 110 resettlement places in total.[89] In the same period, 1,695 Colombian refugees had departed from Latin America – the majority of them from Ecuador – to be resettled outside the region.[90] As an example, between 2010 and 2013, States of resettlement in South America received 244 refugees, who went to Brazil (115), Argentina (59), Uruguay (36), and Chile (34).[91] However, States of resettlement in South America need to open 7,000 resettlement places to help Colombian refugees depart from Ecuador.[92] In an assessment of the first 2 years of the Solidarity Resettlement Programme, 11 States offered 2,696 resettlement places for Latin American and Caribbean refugees.[93] According to this analysis, under the Solidarity Resettlement Programme, Brazil, Chile, and Argentina offered only 312 (11.5 per cent) resettlement places (157, 99, and 56, respectively). Most of the Latin American refugees found a durable solution in Canada, Denmark, the Netherlands, and the US.[94] Thus, although the Solidarity Resettlement Programme excluded States of resettlement outside Latin America, the majority of Latin American refugees obtained a durable solution elsewhere.

All MPA analysis pointed to the fact that the resettlement of refugees faces three main problems in the region: the need for Latin American States to allocate financial resources to improve the Solidarity Resettlement Programme and complement UNHCR assistance; the difficulties faced by refugees in finding formal work, renting a place to live, and achieving self-sufficiency in States of resettlement offering this solution; and the need for the Solidarity Resettlement Programme to receive money from UNHCR donors to sustain its principles.[95] One the other hand, one cooperation initiative by Brazil outside the Solidarity Resettlement Programme seems to have more of an impact on refugees than the 10-year term of the MPA. In 2010, Brazil signed a cooperative agreement with Ecuador to enhance the protection of Colombian refugees. The Brazilian Government funded projects in the areas of education and sexual and gender-based violence in the remote community of Sucumbios that directly affected 15,000 refugees. This cooperative arrangement also developed projects related to water and sanitation infrastructure that benefited both Colombian refugees and the local Ecuadorian population.[96]

89 UNHCR, *Global Trends 2014.*

90 UNHCR, *Projected Global Resettlement Needs,* 26.

91 *Ibid.*, 53.

92 *Ibid.*, 29.

93 UNHCR, *Mexico Plan of Action,* 62–63.

94 *Ibid.*

95 Interview with Nicolás Gutierrez, Protection and Resettlement Coordinator, *Vicária de la Pastoral Social y de los Trabajadores*, Santiago, 12 Jul. 2012; interview with Corina Lang, National Coordinator of the Resettlement Programme, *Hebreu Immigrant Aid Society*, Buenos Aires, 4 Jul. 2012; interview with Jorge Alvarez Nievas, Eligibility Coordinator, *National Commission for Refugees*, Buenos Aires, 2 Jul. 2012; interview with Gabriela Saavedra Fainé, head of the Refugee and Resettlement sections, *Departamento de Extrangeria y Migración, Ministerio Del Interior y Seguridad Publica*, Santiago, 13 Jul. 2012; interview with Renato Zerbini Ribeiro Leão, *National Committee for Refugees*, Brasilia, 25 Aug. 2011. See also A.G. White, *A Pillar of Protection: Solidarity Resettlement for Refugees in Latin America,* New Issues in Refugee Research, Research Paper No. 239, Jun. 2012, 1–26; UNHCR, *Reasentamiento Solidario en Accion, Políticas, Programas y Necesidades: Oportunidades de Cooperación*, Resumen del debate entre gobiernos participantes, ONGs, and ACNUR, Quito, 2–3 Feb. 2006; and UNHCR, *Mexico Plan of Action.*

96 UNCHR Executive Committee, *International Solidarity and Burden-Sharing in All its Aspects,* 7.

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Despite the efforts of South American States, the Solidarity Resettlement Programme has three aspects that combine to undermine its future as a cooperation framework in Latin America. The first is the main idea of fostering South–South cooperation to solve the refugee crisis in the Andean region. The second is the fact that it is an expensive programme for the UNHCR to keep allocating resources to. The third is that it is costly for refugees to obtain employment and achieve self-sufficiency in States of resettlement.

Applying E.H. Carr's analysis of utopia and reality to the textual analysis of the MPA and its implementation process, one conclusion follows. It demonstrates how far Latin American States are from implementing their durable solutions because nothing in its structure provided a mechanism for any State to cooperate. As a result, the visionary commitment of the Solidarity Resettlement Programme could not be applied on the ground by decision-makers. The Solidarity Resettlement Programme provided only a utopian ambition (solidarity to solve the humanitarian situation in the Andean region) without any commitment to act (the right strategic interest) to implement it. The "fighting against invisibility" argument about Colombian refugees in the Andean region started at the beginning of the MPA's term.[97] A durable solution has yet to appear in the Andean region to enhance the protection of refugees. To complicate the scenario, a new wave of forced displacement caused by organised crime is affecting Central America and Mexico.[98] Although the cooperation needed in the Andean region in relation to Ecuador alone is small (7,000 resettlement places), it is far beyond the capacity of States of resettlement in South America to solve it. In conclusion, the Solidarity Resettlement Programme is unlikely to influence States of resettlement to cooperate in Latin America because it only has a visionary commitment.

3.3. The road to replacing the MPA

This section analyses the two new regional documents signed in the region before the BPA. The first is the 2010 Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas (Brasilia Declaration).[99] The second is the 2012 MERCOSUR Declaration of Principles on International Refugee Protection (MERCOSUR Declaration).[100] In the case of the Brasilia Declaration, in its preamble the Latin American States underlined the "creative and innovative character" of the Solidarity Resettlement Programme. Latin American States asked again for the "technical and financial support of the international community" to consolidate the Solidarity Resettlement Programme. In the main text of the Brasilia Declaration, Latin American States declared, for example, that they needed to revitalise all the durable solutions developed under the MPA to improve the protection of refugees in

97 M. Gottwald, "Protecting Colombian Refugees in the Andean Region: The Fight against Invisibility", *International Journal of Refugee Law*, 16(4), 2004, 517–546.

98 D.J. Cantor, "The New Wave: Organized Crime in Central America and Mexico", *Refugee Survey Quarterly*, 33(3), 2014, 34–68.

99 UNHCR, *Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas*, 11 Nov. 2010, available at: http://www.refworld.org/docid/4cdd44582.html (last visited 6 Sep. 2016).

100 MERCOSUR Declaration, 23 Nov. 2012, available at: http://www.refworld.org/docid/5301ebba4.html (last visited 6 Sep. 2016).

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the region, "with the support of the international community", as necessary.[101] They also decided to extend the MPA to deal with "the protection of refugees in the context of mixed migratory movements".[102]

The MERCOSUR Declaration pointed in two directions. First, it highlighted the MPA's contribution to refugee protection and its durable solution mechanisms.[103] Secondly, it announced an ambition to develop national and regional resettlement programmes.[104] Thus, the same visionary commitments to be found in the texts of the Brasilia and MERCOSUR Declarations are located in the MPA. At around the same time as the signing of the MERCOSUR Declaration, the South American States decided to support the celebration of the 30th anniversary of the Cartagena Declaration in December 2014 (The *Cartagena + 30* process).[105] As shown above, the MPA Solidarity Resettlement strategy has so far been inadequate to enhance the protection of refugees. The Brasilia and MERCOSUR Declarations did not offer any new compromises and kept the same utopian ambitions without any compromises, as found in the MPA analysis. In conclusion, the rhetoric of solidarity remains the only available option to influence Latin American States to sign a new Plan of Action to replace the MPA.

3.3.1. The BPA

In launching the BPA in 2014, Latin America and (now) the Caribbean States noted that "over the past thirty years, cooperation and regional solidarity in Latin America and the Caribbean have proven effective in dealing with situations of displacement".[106] Unlike the MPA, the States in the region identified three regional scenarios of refugees, each related to one region of Latin America and the Caribbean[107]: the growing number of refugees in the States of the Andean Region in South America since 2004[108]; the growing number of those forcibly displaced from the Northern Triangle of Central America (Guatemala, Honduras, and El Salvador) because of transnational organised crime[109]; and the complexity of the Caribbean as "a region of origin, destination and transit for thousands of migrants and displaced persons, including people that may require international protection".[110] In relation to the refugee scenario in the Andean region, Latin American and Caribbean States added that they hoped to achieve "sustainable and fair solutions for the vast majority of this population" during the BPA term.[111] Despite this encouraging possibility, the BPA

101 Brasilia Declaration, para. 1.
102 Brasilia Declaration, para. 3.
103 MERCOSUL Declaration, 15.
104 MERCOSUL Declaration, 16.
105 UNHCR, *Países Sul-Americanos Lançam Consultas sobre Proteção Internacional para Celebrar Cartagena + 30*, Brasília, 23 Nov. 2012, available at: http://www.acnur.org/cartagena30/pt-br/paises-sul-americanos-lancam-consultas-sobre-protecao-internacional-para-celebrar-cartagena-30/ (last visited 6 Sep. 2016).
106 BPA, ch. 1, para. 1.
107 BPA, ch. 1.
108 BPA, ch. 1, para. 5.
109 BPA, ch. 1, para. 6.
110 BPA, ch. 1, para. 7.
111 BPA, ch. 1, para. 5.

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did not offer any commitment to solving the problem of Colombian refugees in the Andean region.

3.3.2. The "new" Solidarity Resettlement Programme

Chapter 3 of the BPA developed "Comprehensive, Complementary and Sustainable Solutions" in order to achieve durable solutions for refugees. These solutions are programmes for "Voluntary Repatriation", "Local Integration" (replacing the "Cities of Solidarity" of the MPA), the "Solidarity Resettlement", and – a fourth solution – "Labour Mobility". In relation to the Solidarity Resettlement Programme, Latin American States initially included two points.[112] First, the chapter stressed the aim of the resettlement of refugees "as an instrument of refugee protection, of solidarity with countries hosting a large number of refugees, and of regional and international cooperation". Secondly, it suggested three requirements: a combined evaluation assessment of the Solidarity Resettlement Programme since the implementation of the MPA "to share experiences and good practices"; consolidation of the Solidarity Resettlement Programme "in line with the region's current reality"; and invitations to new States in the region to participate in the Solidarity Resettlement Programme.[113]

Again, Latin American States' requirements show how far they are from developing durable solutions. For example, the MPA assessment is already known for States of resettlement in the region since the first two evaluations elaborated by the UNHCR.[114] During the MPA term, the Solidarity Resettlement Programme could not help refugees in the Andean region to achieve durable solutions, as addressed above. Now, adding the current refugee scenario in Latin America (Central America's forced displacement and the complexity of the Caribbean situation), the Solidarity Resettlement Programme again is unlikely to solve them. The MPA was an example of a mistake in developing a South–South approach to foster cooperation in Latin America to enhance the protection of refugees. Thus, it is futile to ask other Latin American States to become States of resettlement to apply the Solidarity Resettlement Programme.

Subsequently, the BPA defined four actions to consolidate the Solidarity Resettlement Programme.[115] The first was a combined national evaluation assessment focusing "on the selection and profiling phases and integration process".[116] The second was the acknowledgment of priority situations where it was possible to implement the Solidarity Resettlement Programme to support four situations[117]: Ecuador as the State of first asylum with the highest number of refugees recognized in Latin America and the Caribbean[118]; the Northern Triangle States of Central America (Guatemala, Honduras, and El Salvador) owing to their exposure to

112 BPA, ch. 3, para. 1.
113 *Ibid.*
114 UNHCR, *Reasentamiento Solidario en Acción, Políticas, Programas y Necesidades.*; and UNHCR, *Mexico Plan of Action*.
115 BPA, ch. 3, para. 2.
116 BPA, ch. 3, para. 2(a).
117 BPA, ch. 3, para. 2(b).
118 BPA, ch. 3, para. 2(b)(i).

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activities of transnational crime[119]; new resettlement opportunities in the region[120]; and the use of humanitarian visas and resettlement places as a demonstration of solidarity with international humanitarian crises.[121] The third action was to "consider the possibility of establishing a Transit Mechanism to process resettlement cases" to help refugees recognized in the Northern Triangle and the Caribbean. The aim of this mechanism was the transfer, in transit and temporarily, of the refugees.[122] The fourth action was to "explore the possibility of establishing a Voluntary Cooperation Fund" to reinforce the Solidarity Resettlement Programme with the support of the international community, including States from Latin America and the Caribbean.[123]

Of these four options, only one could help to improve the Solidarity Resettlement Programme in practical terms, namely, the creation of the Voluntary Cooperation Fund. In reality, the BPA could have already established this fund but Latin American States preferred to use the "explore the possibility" language to define their actions, showing again how far they were moving from utopia to reality. Nevertheless, the Voluntary Cooperation Fund brought new insights. As mentioned above, the MPA used the abstract idea that the "international community" should finance the Solidarity Resettlement Programme for Latin American States to implement it. By contrast, the BPA included the Latin American and Caribbean States in the "international community" expected to finance the Voluntary Cooperation Fund to improve the Solidarity Resettlement Programme. However, of the Latin American and Caribbean States, Brazil appears to be the only one that may have the regional or international ambition to put money into this new fund. This may be why Latin American States preferred to use the "explore the possibility" language to bring the Voluntary Cooperation Fund initiative to the BPA. The BPA should have also expanded the South–South cooperation concept in this way to include States of resettlement from the North. The High Commissioner, António Guterres, also declared that to implement the BPA the entire American continent should be included, especially North America.[124] He said that he hoped to see "North America becoming an integral part of the Cartagena + 40 process in 2024".[125]

3.3.3. The Labour Mobility programme

The BPA also introduced a new improvement in terms of a lasting solution to enhance the protection of refugees.[126] The aim of Labour Mobility is to make it possible for refugees in States of asylum to have free movement between other States of asylum in Latin America and the Caribbean "where they can have access to gainful employment and achieve economic self-sufficiency".[127] One of the Labour Mobility

119 BPA, ch. 3, para. 2(b)(ii).
120 BPA, ch. 3, para. 2(b)(iii).
121 BPA, ch. 3, para. 2(b)(iv).
122 BPA, ch. 3, para. 2(c).
123 BPA, ch. 3, para. 2(d).
124 A. Guterres, *From the Cartagena Declaration to the Brazil Plan of Action: The New Frontiers of Protection in the Americas*, 57th Lecture of the Americas, Washington, DC, UNHCR, 22 Apr. 2015, available at: http://www.unhcr.org/553a475c9.html (last visited 6 Sep. 2016).
125 *Ibid.*
126 BPA, ch. 3, para. 3.
127 BPA, ch. 3, para. 4.

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possibilities is to offer this solution for refugees living in States of first asylum, such as Ecuador.[128] To apply it, two conditions are necessary: an evaluation of the labour demand in States offering this solution; and an evaluation of the skills and abilities of refugees who select this option.[129] In contrast to the rhetoric of solidarity, the Labour Mobility solution constitutes the first occasion on which Latin American States have used strategic interest language since cooperation under the IRO. The Labour Mobility proposal may be the only actionable initiative that may foster co-operation to enhance the protection of refugees in the region.

Nevertheless, Labour Mobility depends on the right conditions (labour demand) for States to transform it into action. Without this component, States are incapable of fostering cooperation. Two situations complicate this scenario. First, all the MPA analysis points to the difficulties of refugees obtaining employment and achieving self-sufficiency in States of resettlement in South America.[130] Secondly, in contrast to the case of cooperation under the IRO, the situation has changed. The labour overview in Latin America and the Caribbean may prevent States from applying the Labour Mobility solution to accept refugees from States of first asylum. For example, the International Labour Organization (ILO) reports that one of the main challenges facing Latin American and Caribbean States over the next few years are a slowdown in economic growth; a decline in labour force participation rates; urban unemployment, still affecting 14.8 million persons; and the stagnation of employment quality, which currently affects 47.7 per cent of employed non-agricultural workers.[131] As a result, it seems that the Labour Mobility solution is unlikely to complement the Solidarity Resettlement Programme or to help Colombian refugees.

3.3.4. Analysis of the BPA

Despite the efforts of Latin American and Caribbean States, the BPA did not bring any commitment to renewing the Solidarity Resettlement Programme. Moreover, the scenario in the region has deteriorated. Now, the framework of the BPA applies to forced displacement problems related to the Andean, Northern Triangle of Central America, and Caribbean regions. Therefore, the Solidarity Resettlement Programme within the BPA has two aspects that undermine its future as a cooperative framework in the region. First, its continued focus on South–South cooperation to enhance the protection of refugees; and secondly, the enlargement of the scenario of forced displacement facing the region.

Two further circumstances already affect South America that may prevent States of resettlement in this region from continuing to offer resettlement places for refugees. The first is the problem of Venezuela. Venezuela is the State of first asylum in the region with the highest population "in a refugee-like situation" (168,548).[132] Two domestic issues may undermine any future solution related to refugee

128 BPA, ch. 3, para. 4(d).

129 *Ibid.*

130 White, *A Pillar of Protection*; UNHCR, *Reasentamiento Solidario en Acción, Políticas, Programas y Necesidades;* UNHCR, *Mexico Plan of Action*.

131 ILO, *2013 Labour Overview: Latin American and Caribbean*, Lima, ILO/Regional Office for Latin American and Caribbean, 2013.

132 UNHCR, *Global Trends 2014*.

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protection or cooperation in Venezuela: rising economic problems and unaddressed political demands.[133] The second is in relation to the economic scenario. The International Monetary Fund (IMF) is signalling that the regional outlook for Latin America and the Caribbean indicates three challenges (especially for South America, including Argentina, Brazil, Chile, and Venezuela) that may discourage States from deciding to cooperate. These are: the slowdown in growth, which has been greater than expected; domestic uncertainties that have contributed to lower economic confidence; and the external risks problems (a decline in commodities prices caused by the slowdown in China, geopolitical tensions that may affect oil prices, and financial volatility, including the expected rise in US interest rates).[134] In conclusion, these constraints create the expectation that the Solidarity Resettlement Programme within the BPA is unlikely to solve any cooperation problems in the region for the next 10 years.

4. CONCLUSION

Cooperation is hard to establish in any area of world politics. In the refugee regime, it is harder because the structure for cooperation to take place depends on many variables and conditions. Refugee scholars interested in a Latin American cooperation framework misunderstand three points. First, it would appear they underestimate how hard cooperation is. Secondly, they exaggerate the power and significance of the rhetoric of solidarity in fostering cooperation. Thirdly, they forget the lack of capacity of Latin American States to implement cooperation. A combination of many favourable factors, strategic interests, and values may appear to be needed for States to cooperate. The evidence shows that moral values, solidarity, and principles of altruism are insufficient on their own for States to cooperate.

The idea of introducing a general understanding of cooperation on regional issues has brought a new perspective to the way scholars focusing on one region may look at cooperation in the future. Between 1948 and 1951, fewer than 30 States in a world stage of less than 60 States helped to find a solution for 1 million refugees. In the end, favourable factors, strategic interests, and values helped these States give new hope to refugees. Today, the refugee regime again has 1 million refugees who need to find new lives in a world of 200 States. Despite the current number of refugees, the need for cooperation may increase shortly as more people are forced to flee to States of first asylum. For scholars interested in cooperation, there is much work to be done. Instead of continuing to battle alone and in vain with models that are irrelevant for cooperation, it is time to take cooperation seriously and work together to identify the conditions that may encourage States of resettlement to cooperate again. Even so, it is not certain that the favourable factors in the current world political, security, and economic scenarios will encourage States of resettlement to cooperate. Finally, one general point appears evident. Without the right strategic interest to

133 International Crisis Group, "Venezuela: Dangerous Inertia", *Latin American Briefing*, 31 Caracas/Bogota/Belgian, 23 Sep. 2014, available at: http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/b031-venezuela-dangerous-inertia.aspx (last visited 6 Sep. 2016).

134 IMF, *Latin America and the Caribbean: Coping with Challenges Times, Regional Economic Outlook Update*, Washington, DC, IMF, 14 Dec. 2014.

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influence States to cooperate, the massive number of refugees will continue to remain in States of first asylum in the South.

The strategy of using E.H Carr's analysis of utopia and reality proves useful in reinforcing the need to analyse the Latin American cooperation framework's ambitions alongside their impact on the ground. It provides clear evidence of how far Latin American States are from enhancing the protection of refugees. This finding, linked with the general results of cooperation, indicates that Latin America is not the exceptional region in the refugee regime that it seems to be. For Latin American States to foster cooperation, they will need the same general conditions in the refugee regime. The rhetoric of solidarity is unable to influence any State to cooperate. For scholars interested in Latin America, this finding also brings a new perspective to the way we approach the future of cooperation in this region. The MPA failed to solve the situation of Colombian refugees in the Andean region. The BPA's 10-year term in relation to cooperation is doomed to fail for the reasons explained here. In 2024, *Cartagena + 40* may bring a new paradigm to enhance the protection of refugees in Latin America and the Caribbean: moving from a regional to a global cooperation framework.

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